

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 698

SPONSOR: Education Committee, Health, Aging, and Long-Term Care Committee and Senator Saunders

SUBJECT: Certified Geriatric Nurses

DATE: March 12, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	<u>Dormady</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill is the "Clara Ramsey Care of the Elderly Act". The bill creates a category of geriatric specialty nursing called certified geriatric specialist. The bill establishes: (1) a scope of practice for certified geriatric specialists, (2) certification requirements, including education requirements, and (3) penalties for using the title of certified geriatric specialist or for practicing geriatric specialty nursing without a certificate.

The bill requires the Agency for Workforce Innovation to create a pilot program for delivery of geriatric nursing education to certified nursing assistants who are employed in a nursing home. A 7-member steering committee will oversee the pilot program. The Agency for Workforce Innovation is required to submit evaluation and status reports to the Governor and Legislature.

The bill appropriates an unspecified amount of money to the Agency for Workforce Innovation to support implementation of the pilot program.

The bill creates s. 464.0125, F.S., and four undesignated sections of law. The bill amends ss. 381.00315, 400.021, 400.211, 400.23, 409.908, 458.303, 1009.65, and 1009.66, F.S.

II. Present Situation:

Nursing home staffing standards are established in s. 400.23 (3), F.S., and in rule 59A-4.108, F.A.C. A nursing home must provide a minimum certified nursing assistant (CNA) staffing of 2.6 hours of direct care per resident per day, and the staffing requirement will increase to 2.9 hours of direct care per resident per day on January 1, 2004. The statute also establishes a minimum of one CNA per 20 residents. Each nursing home must provide one hour of direct care

per resident per day by a licensed nurse, and a nursing home may never staff below one licensed nurse per 40 residents. These staffing requirements were enacted by the 2001 Legislature in CS/CS/CS/SB 1202, which required staffing increases to be phased in over a 3-year period. That legislation also required training for staff and implementation of a risk management program in nursing homes.

The national shortage of nurses affects nursing homes as well as hospitals. The shortage is caused in part by a shortage of nursing faculty to oversee clinical experience by nurses in training. At the organizational session of the Legislature in November 2002, Senate President Jim King proposed a special program to train CNAs working in nursing homes in the skills of geriatric nursing. The proposal to create educational opportunities in the long-term care setting would permit programs with clinical experience in geriatric nursing only, thus avoiding the problem of finding faculty to oversee the other clinical experiences of the practical nursing curriculum.

On December 16, 2002, Senate President Jim King and Speaker of the House of Representatives Johnnie Byrd created a Joint Select Committee on Nursing Homes to address the issue of nursing homes' continuing difficulty in obtaining and maintaining adequate insurance coverage. The committee met five times during January and February 2003 and produced recommendations designed to address the liability insurance crisis. The Joint Select Committee recommended that the Legislature develop a certified geriatric nursing classification geared toward CNAs who are increasing their skill level and receiving additional training in the nursing aspects of providing care to the elderly in long-term care facilities.

Scope of Practice in Nursing

Part I, ch. 464, F.S., provides for the regulation of nursing. The "practice of professional nursing" is defined to mean the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to, specified modalities; the administration of medications and treatments as prescribed or authorized by a duly licensed practitioner; and the supervision and teaching of other personnel in the theory and performance of any of the above acts. The "practice of practical nursing" is defined to mean the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. The definition of practice of professional nursing and the practice of practical nursing provide that the professional nurse and the practical nurse must be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

Florida Board of Nursing Approval of Nursing Programs

Professional (RN) or practical nursing (LPN) licensure applicants must graduate from an approved nursing program as a prerequisite to being allowed to sit for the nursing licensure examination. Under part I, ch. 464, F. S., the Florida Board of Nursing must adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, administrative

procedures, and clinical training as are necessary to ensure that approved nursing programs graduate nurses capable of competent practice. The part requires any institution wishing to conduct an approved nursing program in Florida to apply to the Department of Health and to show compliance with the requirements of the part and any applicable administrative rules adopted by the board.

In rule 64B9-2.008, F.A.C., the Board of Nursing establishes the clinical student/teacher ratio as “no more than twelve students . . . to a faculty member.” In September, 2000, the board proposed changing the ratio to eight to one or 10 to one. The proposal was announced after the divisions within the Department of Education had already submitted their budget requests. According to an electronic mail survey, changing the ratio to eight to one would have increased the training costs borne by community college nursing programs by \$4 to \$5 million.

Section 100, chapter 2001-203, L.O.F., provided that the Florida Board of Nursing within the Department of Health must hold in abeyance until July 1, 2002, the development of any administrative rule pursuant to s. 464.019, F.S., which relates to the establishment of faculty/student clinical ratios. The Florida Board of Nursing and the Florida Department of Education were required to submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such proposed rule change.

Pursuant to ch. 2001-203, L.O.F., the Department of Education/Board of Nursing Task Force on Clinical Ratios in Florida Nursing Programs submitted a report in December, 2001, and recommended no change in the faculty/student clinical ratios for a period of two years and that a joint task force conduct a study to examine the issues of the relationship of clinical ratios to patient safety and quality of education and to investigate possible alteration of rules affecting clinical ratios.

Chapter 2002-230, L.O.F., modified the provisions governing approval of nursing programs by the Florida Board of Nursing. The law exempts from certain board administrative rules, any nursing program that maintains accreditation through a nursing accrediting body recognized by the United States Department of Education, if the program maintains a student pass rate on the National Clinical Licensure Exam (NCLEX®) of not less than ten percentage points below the national average pass rate as reported annually by the National Council of State Boards of Nursing (NCSBN). The Florida Board of Nursing must review an institution whose passing rate on the NCLEX® falls below the standard established in the law and may assist an institution in complying with the standard.

There are a limited number of clinical slots for nursing programs in Florida. The shortage of nursing faculty to supervise students’ clinical experience also contributes to the shortage of clinical slots.

Requirements for Certification as a “Certified Nursing Assistant” in Florida

Part II, ch. 464, F.S., provides for the regulation of certified nursing assistants by the Florida Board of Nursing. The Florida Department of Education was responsible for approving nursing assistant training programs until the Florida Board of Nursing assumed that responsibility on

October 1, 2000. The Florida Board of Nursing must issue a certificate to any person who demonstrates minimum competency to read and write and successfully passes the required Level I or Level II criminal background screening required under s. 400.215, F.S., and meets one of the following criteria:

1. Successful completion of an approved training program and achievement of a minimum score on the nursing assistant competency examination;
2. Achievement of a minimum score on the nursing assistant competency examination by an applicant who has a high school diploma or its equivalent or who is at least 18 years old;
3. Current certification in another state; or
4. Completion of the curriculum under the Enterprise Florida Jobs and Education Partnership Grant and achievement of a minimum score on the nursing assistant competency examination.

The nursing assistant competency examination has two parts: (1) a two-hour written test with fifty multiple-choice questions written in English; and (2) a manual skills evaluation that requires the applicant to perform five randomly-selected nursing assistant skills. An oral examination must be administered as a substitute for the written portion of the examination upon an applicant's request.

Completion of a state-approved training program is not required before an applicant may sit for the nursing assistant competency examination if the applicant is 18 years of age or older, or has a high school diploma or its equivalent. If a nursing assistant applicant was certified, and remained active and in good standing on another state's certified nursing assistant registry, the applicant can obtain certification from Florida, as long as the applicant successfully passes the required Level I or Level II criminal background screening. An applicant is eligible to take the nursing assistant competency examination three times. After the third attempt the applicant is not eligible for reexamination unless the applicant completes an approved training program.

Certification as a nursing assistant is valid until a nursing assistant allows a period of 24 consecutive months to pass during which the nursing assistant fails to perform any nursing-related services for compensation. When a nursing assistant fails to perform any nursing-related services for monetary compensation for a period of 24 consecutive months, the nursing assistant must complete a new training and competency evaluation program. Nursing assistants must maintain a current address with the Florida Board of Nursing and must complete 18 hours of inservice training during each calendar year.

Licensure Requirements for Licensed Practical Nurses in Florida

To become licensed as a practical nurse in Florida, an applicant must pass a national licensing examination developed by the National Council of State Boards of Nursing (NCSBN) or a similar national organization. To sit for the examination in Florida, an applicant must complete an application and pay the Florida Department of Health fees totaling \$180, which includes the following fees: \$75 initial licensure fee; \$75 examination fee; \$5 unlicensed activity fee; \$5 Nursing Student Loan Forgiveness Fund fee; and \$20 fingerprint/criminal background fee (includes \$5 for administrative costs). The applicant must provide sufficient information for a statewide criminal records correspondence check through the Florida Department of Law

Enforcement; be in good mental and physical health; have a high school diploma or the equivalent; have completed the requirements of a Florida Board of Nursing approved nursing program for licensed practical nurses or the practical nursing education equivalency; and have the ability to communicate in English. The practical nursing education equivalency is defined by Board of Nursing rule to mean professional nursing courses of study, completed with a grade of "C-" or better, which meet the standards of practical nursing education required in approved practical nursing programs in Florida.

Prior to the application for examination, any convicted felon must obtain a restoration of his or her civil rights in order to become eligible to sit for the examination. If an applicant has been convicted or found guilty of, or has entered a plea of nolo contendere to, regardless of adjudication, any offense other than a minor traffic violation, the applicant must submit arrest and certified court records stating the nature of the offense and final disposition of the case so that a determination can be made by the Florida Board of Nursing whether the offense relates to the practice of nursing.

Once the Florida Board of Nursing has certified an applicant to take the examination, the applicant must submit a letter of authorization from the board and pay \$200 to the NCSBN examination vendor to sit for the computerized national nursing examination (NCLEX-PN®). An applicant is eligible to sit for the license examination up to three consecutive times. After the third failed examination, the applicant must complete a Florida Board of Nursing remedial course before he or she may be approved for reexamination up to three additional times before the applicant is required to retake remediation. The applicant must apply for reexamination within 6 months after completion of remediation. The Florida Board of Nursing has established, by rule, requirements for the curriculum of the remedial course for reexamination which include a minimum of 80 hours of didactic education and 96 hours of clinical experience in a medical-surgical setting. The content of the practical nurse remedial course must include medical, surgical, obstetric, pediatric and geriatric nursing.

Articulation of Nursing Education Programs

Florida has an articulation agreement for health education programs that permits a student to learn in modules from the basic health sciences course in high school to bachelor's degree programs. The CNA standards are the basis for the LPN standards. The high school core also articulates into LPN and associate degree in nursing (A.D.N.) programs. Most community colleges have a "bridge" program for LPN to RN. Universities are required to accept and speed the progress of registered nurses who hold an AS degree and want to get their BS in nursing (known as AS to BS articulation). Under AS to BS articulation, a university must accept the AS degree as a block of designated nursing courses and may not, for instance, decide not to give credit for a course or to accept some courses as electives rather than as credits toward the nursing degree.

The articulation among health education programs in Florida is designed to ensure that a student's (and in many cases, the state's) investment of time and money at one level of education can provide a building block to the next education program when the health care worker is ready to move up to the next level of skill and knowledge.

Workforce Perspective—Nurses Now

Nurses Now is a partnership between the Agency for Workforce Innovation (AWI), the Florida Department of Education, Division of Community Colleges and Division of Workforce Education, the Department of Health, and the nurse education and training community to address the critical statewide need for nursing instructors, Registered Nurses, and Licensed Practical Nurses. The U.S. Department of Labor has earmarked a \$2 million training grant for Florida's Nurses Now project. AWI will serve as the lead agency, project manager, fiscal agent and liaison with the 24 Regional Workforce Development Boards. AWI will also serve as liaison with private education and training providers. The Department of Education will be the liaison with the state university system, community colleges and public secondary and post secondary school system nursing education and training programs. Activities will include increasing the awareness of careers in nursing, education and training opportunities in nursing, career advancement opportunities, and increasing the capacity of the education and training system to meet the increased need for nurses. Regional Workforce Boards, through their One Stop delivery system, will determine participant eligibility.

To achieve the goals of Nurses Now, the state will develop a targeted statewide recruitment campaign to attract and train 330 eligible adults, older youth (19-21 years of age), dislocated workers, incumbent workers, veterans, and inactive licensed nurses to enroll in education and training programs that will prepare them to enter or reenter the nursing profession in Florida or progress to a higher level of the career ladder. The state, working in partnership with education entities and health care facilities, will identify and facilitate the replication of innovative training options and professional certifications.

In addition to increasing the number of training opportunities, Nurses Now will identify innovative and alternative education and training delivery systems that provide opportunities for students in all areas of the state to access training and receive clinical experiences in health care facilities or with patient care simulators. A Nurses Now website will provide linkages to education and training programs, exemplary practices, scholarship and loan information, and employment and training resources of the One Stop delivery system and regional workforce boards.

Clara Ramsey

Clara Ramsey worked as an aide to Jacksonville lawmakers for 13 years. She was attentive to the concerns of the constituents who called on their senator for assistance. She was beloved by all who encountered her joyful spirit and her calm way of accomplishing objectives. In the months preceding her untimely death in an automobile accident on February 23, 2003, Mrs. Ramsey was working on the geriatric nursing proposal that is created in this bill.

III. Effect of Proposed Changes:

Section 1. Cites the bill as the "Clara Ramsey Care of the Elderly Act". The act is named for Clara Ramsey, a long-time Legislative aide who worked on the development of this geriatric nursing initiative.

Section 2. Creates the Certified Geriatric Specialist Preparation Pilot Program for delivery of geriatric nursing education to CNAs who wish to become certified geriatric specialists. The AWI must select two pilot sites in nursing homes that:

- Have received the Gold Seal designation under s. 400.235, F.S.,
- Have been designated a teaching nursing home under s. 430.80, F.S., or
- Have not received a class I or class II deficiency, under s. 400.23(8), F.S., within the 30 months preceding application for the program.

To be able to receive geriatric nursing education under the pilot program, a CNA must have been employed by a participating nursing home for at least one year and have received a high school diploma or its equivalent. The geriatric nursing education must be provided at the worksite and in coordination with the CNA's work schedule. Faculty will provide the instruction under a nursing program approved pursuant to s. 464.019, F.S.

The training must prepare the CNA to meet the requirements for certified geriatric specialist. The didactic and clinical training will include all portions of the practical nursing curriculum approved under s. 464.019, F.S., except for pediatric and obstetric/maternal-child training; it must also include additional training in the maintenance of health, the prevention of injury, and the provision of palliative care for geriatric patients.

Section 3. Creates the Certified Geriatric Specialty Nursing Initiative Steering Committee to guide the implementation of the pilot program. The steering committee is composed of the following members:

1. The Chair of the Board of Nursing or his or her designee,
2. A representative of the AWI, appointed by the Director of Workforce Innovation,
3. A representative of Workforce Florida, Inc., appointed by the Chair of the Board of Directors of Workforce Florida, Inc.,
4. A representative of the Department of Education, appointed by the Secretary of Education,
5. A representative of the Agency for Health Care Administration, appointed by the Secretary of Health Care Administration,
6. The Director of the Florida Center for Nursing, and
7. A representative of a Gold Seal nursing home, appointed by the Secretary of Health Care Administration.

The steering committee must provide consultation and guidance to AWI on matters of policy during the implementation of the pilot program and must provide oversight to the evaluation of the pilot program. Pursuant to s. 112.061, F.S., members of the steering committee will be reimbursed for expenses only. The steering committee must complete its activities by June 30, 2006, and the authorization for the steering committee ends on that date.

Section 4. Requires AWI to conduct or contract for an evaluation of the pilot program. The agency must ensure that an evaluation report is submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006. The evaluation must address the experience and success of the certified nursing assistants in the pilot program and must contain recommendations regarding the expansion of the delivery of geriatric nursing education in nursing homes.

Section 5. Requires AWI, in consultation with the steering committee, to submit status reports and recommendations regarding the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives on January 1, 2004, January 1, 2005, and January 1, 2006.

Section 6. Creates s. 464.0125, F.S., to provide definitions and responsibilities for certified geriatric specialists. *Certified geriatric specialist* is defined as a person who meets the qualifications specified in the section and who is certified by the board to practice as a certified geriatric specialist. *Geriatric patient* means any patient who is 60 years of age or older. The bill defines *practice of certified geriatric specialty nursing* as the performance of selected acts in facilities licensed under part II or part III of chapter 400, F.S., including the administration of treatments and medications, in the care of ill, injured, or infirm geriatric patients and the promotion of wellness, maintenance of health, and prevention of illness of geriatric patients under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist.

The scope of practice of a certified geriatric specialist includes the practice of practical nursing as defined in s. 464.003, F.S., for geriatric patients only, except for any act in which instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing is required. A certified geriatric specialist, while providing nursing services in facilities licensed under part II or part III of chapter 400, F.S., may supervise the activities of certified nursing assistants and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing. The certified geriatric specialist must be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in performing certified geriatric specialty nursing.

Any certified nursing assistant desiring to be certified as a certified geriatric specialist may apply to the department and submit proof that he or she holds a current certificate as a certified nursing assistant and has satisfactorily completed the following requirements:

1. Is in good mental and physical health, is a recipient of a high school diploma or the equivalent, and has completed the requirements for graduation from an approved program for nursing, or its equivalent as determined by the board, for the preparation of licensed practical nurses, except for instruction and clinical knowledge of pediatric nursing or obstetric/maternal-child nursing. Any program that is approved on July 1, 2003, by the board for the preparation of registered nurses or licensed practical nurses may provide training for the preparation of certified geriatric specialists without further board approval.
2. Has the ability to communicate in the English language, which may be determined by an examination given by the department.
3. Has provided sufficient information, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

Each applicant who meets the requirements will, unless denied pursuant to s. 464.018, F.S., be entitled to certification as a certified geriatric specialist. The board must certify, and the department must issue a certificate to practice as a certified geriatric specialist to, any CNA meeting the qualifications. The board must establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board is authorized to adopt rules to implement the provisions of the section.

A person receiving certification as a geriatric specialist must:

1. Work only within the confines of a facility licensed under part II or part III of chapter 400, F.S.
2. Care for geriatric patients only.
3. Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018, F.S.

Any certified geriatric specialist who completes the additional instruction and coursework in an approved nursing program for the preparation of practical nursing in the areas of pediatric nursing and obstetric/maternal-child nursing, unless denied pursuant to s. 464.018, F.S., shall be entitled to licensure as a licensed practical nurse if the applicant otherwise meets the requirements of s. 464.008, F.S.

The bill provides restrictions and penalties.

1. Only persons who hold certificates to practice as certified geriatric specialists in Florida or who are performing services within the practice of certified geriatric specialty nursing under the exception set forth in s. 464.022(8), F.S., will have the right to use the title *Certified Geriatric Specialist* and the abbreviation *C.G.S.*
2. No person shall practice or advertise as, or assume the title of, certified geriatric specialist or use the abbreviation *C.G.S.*, or take any other action that would lead the public to believe that person was certified as such or is performing services within the practice of certified geriatric specialty nursing under the exception set forth in s. 464.022(8), F.S., unless that person is certified to practice as such.
3. A violation of the subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.
4. Practicing certified geriatric specialty nursing without holding an active certificate to do so constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

Section 7. Amends s. 381.00315, F.S., to authorize the temporary reactivation of the inactive certification of a certified geriatric specialist in the event of a public health emergency.

Section 8. Amends s. 400.021, F.S., to add certified geriatric specialists to the individuals who may render nursing services in a nursing home.

Section 9. Amends s. 400.211, F.S., to permit the employment in a nursing home of a certified geriatric specialist as a CNA, just as a registered nurse or practical nurse could be employed as a CNA.

Section 10. Amends s. 400.23(3), F.S., to authorize the inclusion of certified geriatric specialists as nursing staff in the computation of nursing staffing minimums in a nursing home.

Section 11. Amends s. 409.908(2), F.S., to include certified geriatric specialists in the direct care subcomponent when patient costs are calculated for nursing home reimbursement by the Medicaid program.

Section 12. Amends s. 458.303(2), F.S., to permit certified geriatric specialists to practice under the direct supervision of a licensed physician.

Section 13. Amends s. 1009.65, F.S., to make certified geriatric specialists eligible for participation in the Medical Education Reimbursement and Loan Repayment Program, up to \$4000 per year.

Section 14. Amends s. 1009.66(2), F.S., to make certified geriatric specialists eligible for participation in the Nursing Student Loan Forgiveness Program.

Section 15. Provides an unspecified appropriation from the General Revenue Fund to AWI to support implementation of the pilot program.

Section 16. Provides that the bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides an unspecified appropriation from the General Revenue Fund to AWI to support implementation of the pilot program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
